

REMARKS

The Office Action mailed October 15, 2008 has been received and reviewed. By the present Response and Amendment, new Claims 23-25 are presented. No new matter is introduced, support for the new claims being present in the application as originally filed, for example in original Claims 4, 6 and 12, and in Figures 1-3 and 5.

35 U.S.C. § 102

Claims 11-14 and 16-18 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,922,099 to Christine et al. Applicant respectfully traverses and requests reconsideration.

As a preliminary matter, Christine et al discloses an applicator dispenser such as for a douche or for decorating cakes, which are very, very different types of devices than a lancing device. One skilled in the art would not look to such far-removed fields of non-analogous art as being relevant in any way to an endcap for a lancing device. Accordingly, the Christine et al reference in no way anticipates or suggests Applicant's presently claimed "endcap for a lancing device."

Claims 11-14 and 16-18 specifically recite "an endcap for a lancing device, said endcap comprising a first end for connection to the lancing device." U.S. Patent 3,922,099 to Christine et al. does not disclose or suggest any means for connecting anything to a lancing device as presently claimed. Claims 11-14 and 16-18 also recite "a second end defining an opening through which a sharp tip of a lancet can pass." Christine does not disclose or suggest any opening through which a lancet can pass.

In order to properly support a rejection for anticipation under 35 U.S.C. §102, the cited reference must teach every aspect of the claimed invention. M.P.E.P. §706.02. The Christine et al reference does not teach at least these referenced features recited in Claims 11-14 and 16-18. Accordingly, Claims 11-14 and 16-18 are not anticipated by the Christine et al reference.

35 U.S.C. § 103

Claims 1-8 and 10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,951,493 to Douglas et al. in view of U.S. Patent No. 3,922,099 to Christine et al. Claim 15 stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,922,099 to Christine et al. in view of U.S. Patent No. 5,951,493 to Douglas et al. Claim 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,951,493 to Douglas et al. in view of U.S. Patent No. 3,922,099 to Christine et al., and further in view of U.S. Patent No. 6,558,402 to Chelak et al. Claim 19 stands rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,922,099 to Christine et al. in view of U.S. Patent No. 5,951,493 to Douglas et al., and further in view of U.S. Patent No. 6,558,402 to Chelak et al. Claims 20 and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,951,493 to Douglas et al. in view of U.S. Patent No. 3,922,099 to Christine et al. Applicant respectfully traverses each and every one of these grounds of rejection and requests reconsideration.

In order to properly rely on a reference under 35 U.S.C. 103, the reference must be "analogous prior art." See MPEP 2141.01(a)(I) (for a reference in a field different from that of the applicant's endeavor to be considered in support of a §103 obviousness rejection, the reference must be one which "logically would have commended itself to an inventor's attention in considering his or her invention as a whole."). That is clearly not the case here, where the Christine et al reference is directed to cake decorating (column 3 line 55) and douche applicators (column 1 line 12), not to lancing devices or anything of the sort. Cake decorating and douches are very different fields of endeavor than a lancing device for collecting a sample of body fluid (and also very different fields than those of the Douglas et al or Chelak et al references). One of ordinary skill in the art would not look to the fields of douches or cake decorating for assistance in modifying the

design of a lancing device. Therefore the Christine et al reference is clearly non-analogous art, and is not properly applied against applicant's claims.

Moreover, there would be no motivation whatsoever to combine the teaching of Christine et al with that of Douglas et al or Chelak et al as proposed, and therefore the §103 rejection cannot be properly maintained. See KSR International Co. v. Teleflex, Inc., 550 U.S. 398, 418 (2007) (to support a finding of obviousness, an apparent reason to combine elements of the prior art should be made explicit), citing In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006) ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness").

Accordingly, none of Claims 1-8 and 10, Claim 15, Claim 9, Claim 19 or Claims 20 and 22 are obvious under 35 U.S.C. §103 in view of the art of record.

Newly-Presented Claims

New Claims 23-25 are believed to be allowable as the art of record nowhere discloses or suggests a lancing device having a four-lobed, cross-shaped opening through which a lancet tip passes upon actuation of the lancing device.

CONCLUSION

In view of the amendments submitted herein and the above comments, it is believed that all grounds of rejection are overcome and that the application has now been placed in full condition for allowance. Accordingly, Applicant earnestly solicits early and favorable action. Should there be any further questions or reservations, the Examiner is urged to telephone Applicant's undersigned attorney at (770) 984-2300.

Respectfully submitted,



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